

Article 3F.

Research and Development.

§ 105-129.50. (See note for repeal) Definitions.

The definitions in section 41 of the Code apply in this Article. In addition, the following definitions apply in this Article:

- (1) Development tier one area. – Defined in G.S. 143B-437.08.
- (2) Full-time job. – Defined in G.S. 105-129.81.
- (3) Reserved.
- (4) North Carolina university research expenses. – Any amount the taxpayer paid or incurred to a research university for qualified research performed in this State or basic research performed in this State.
- (4a) (Repealed effective for taxable years beginning on or after January 1, 2014) Participating community college. – A community college, as defined in G.S. 115D-2, that offers an associate in applied science degree in simulation and game development.
- (5) Period of measurement. – Defined in the Small Business Size Regulations of the federal Small Business Administration.
- (6) Qualified North Carolina research expenses. – Qualified research expenses, other than North Carolina university research expenses, for research performed in this State.
- (7) Receipts. – Defined in the Small Business Size Regulations of the federal Small Business Administration.
- (8) Related person. – Defined in G.S. 105-163.010.
- (9) Research university. – An institution of higher education that meets one or both of the following conditions:
 - a. It is classified as one of the following in the most recent edition of "A Classification of Institutions of Higher Education", the official report of The Carnegie Foundation for the Advancement of Teaching:
 1. Doctoral/Research Universities, Extensive or Intensive.
 2. Masters Colleges and Universities, I or II.
 3. Baccalaureate Colleges, Liberal Arts or General.
 - b. It is a constituent institution of The University of North Carolina.
- (10) Small business. – A business whose annual receipts, combined with the annual receipts of all related persons, for the applicable period of measurement did not exceed one million dollars (\$1,000,000). (2004-124, s. 32D.2; 2010-147, s. 3.2; 2011-330, s. 4; 2013-316, s. 2.3(b).)

§ 105-129.51. (See note for repeal) Taxpayer standards and sunset.

- (a) A taxpayer is eligible for a credit allowed in this Article if it satisfies the requirements of G.S. 105-129.83(c), (d), (e), (f), and (g) relating to wage standard, health insurance, environmental impact, safety and health programs, and overdue tax debts, respectively.
- (b) This Article is repealed for taxable years beginning on or after January 1, 2016.
- (c) Repealed by Session Laws 2004-124, s. 32D.4, effective for taxable years beginning on or after January 1, 2006. (2004-124, ss. 32D.2, s. 32D.4; 2006-252, s. 2.20; 2008-107, s. 28.2(a); 2010-147, s. 3.3; 2013-316, s. 2.3(c).)

§ 105-129.52. (See note for repeal) Tax election; cap.

(a) Tax Election. – A credit allowed in this Article is allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which the credit is first claimed. This election is binding. Any carryforwards of a credit must be claimed against the same tax.

(b) Cap. – A credit allowed in this Article may not exceed fifty percent (50%) of the amount of tax against which it is claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit allowed in this Article may be carried forward for the succeeding 15 years. (2004-124, s. 32D.2; 2010-96, s. 40.3; 2010-147, s. 3.4.)

§ 105-129.53. (See notes) Substantiation.

To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary. Every taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for a credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection. (2004-124, s. 32D.2.)

§ 105-129.54. Report.

The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by credit and by taxpayer:

- (1) The number of taxpayers that took a credit allowed in this Article, itemized by the categories of small business, low-tier, university research, Eco-Industrial Park, and other.
- (2) The amount of each credit taken in each category.
- (3) The total cost to the General Fund of the credits taken. (2004-124, s. 32D.2; 2005-429, s. 2.7; 2010-147, s. 3.5; 2010-166, s. 1.7; 2013-316, s. 2.3(d).)

§ 105-129.55. (See note for repeal) Credit for North Carolina research and development.

(a) Qualified North Carolina Research Expenses. – A taxpayer that has qualified North Carolina research expenses for the taxable year is allowed a credit equal to a percentage of the expenses, determined as provided in this section. Only one credit is allowed under this section with respect to the same expenses. If more than one subdivision of this section applies to the same expenses, then the credit is equal to the higher percentage, not both percentages combined. If part of the taxpayer's qualified North Carolina research expenses qualifies under more than one subdivision of this section, the applicable percentages apply separately to each part of the expenses.

- (1) Small business. – If the taxpayer was a small business as of the last day of the taxable year, the applicable percentage is three and one-quarter percent (3.25%).

- (2) Low-tier research. – For expenses with respect to research performed in a development tier one area, the applicable percentage is three and one-quarter percent (3.25%).
- (2a) University research. – For North Carolina university research expenses, the applicable percentage is twenty percent (20%).
- (2b) Eco-Industrial Park. – For expenses with respect to research performed in an Eco-Industrial Park certified under G.S. 143B-437.08, the applicable percentage is thirty-five percent (35%).
- (3) Other research. – For expenses not covered under another subdivision of this section, the percentages provided in the table below apply to the taxpayer's qualified North Carolina research expenses during the taxable year at the following levels:

| Expenses Over | Up To | Rate |
|---------------|---------------|-------|
| -0- | \$50 million | 1.25% |
| \$50 million | \$200 million | 2.25% |
| \$200 million | — | 3.25% |

(b) Repealed by Session Laws 2010-147, s. 5.5, effective January 1, 2011. (2004-124, s. 32D.2; 2006-252, s. 2.1; 2007-323, s. 31.8(a); 2010-147, s. 5.5.)

§ 105-129.56. (Repealed effective for taxable years beginning on or after January 1, 2014)
Interactive digital media.

(a) IDM Defined. – Interactive digital media is a product that meets all of the following requirements:

- (1) It is produced for distribution on electronic media, including distribution by file download over the Internet.
- (2) It contains a computer-controlled virtual universe with which an individual who uses the program may interact in order to achieve a goal.
- (3) It contains a significant amount of at least three of the following five types of data: animated images, fixed images, sound, text, and 3D geometry.

(b) Credit. – A taxpayer that develops in this State interactive digital media or a digital platform or engine for use in interactive digital media is allowed a credit equal to a percentage of the taxpayer's expenses that exceed fifty thousand dollars (\$50,000) and that are paid during the taxable year in developing the media, platform, or engine. The percentage that applies to the expenses is determined under subsection (c) of this section. The expenses to which the credit applies are as follows:

- (1) Compensation and wages for a full-time job on which withholding payments are remitted to the Department under Article 4A of this Chapter.
- (2) Employee fringe contributions on compensation and wages included under subdivision (1) of this subsection, including health, pension, and welfare contributions.
- (3) Amounts paid to a participating community college or a research university for services performed in this State.

(c) Percentage. – The percentage of the credit allowed under this section is as follows:

- (1) Higher education collaboration. – Twenty percent (20%) for allowable expenses paid to a participating community college or a research university.

- (2) Other. – Fifteen percent (15%) for allowable expenses not covered in subdivision (1) of this subsection.

(d) Limitations. – The amount of credit allowed a taxpayer under this section may not exceed seven million five hundred thousand dollars (\$7,500,000). The credit allowed by this section does not apply to interactive digital media that meets any of the following descriptions:

- (1) It is developed by the taxpayer for internal use.
- (2) It is an interpersonal communications service, such as videoconferencing, wireless telecommunications, a text-based channel, or a chat room.
- (3) It is an Internet site that is primarily static and primarily designed to provide information about one or more persons, businesses, companies, or firms.
- (4) It is a gambling or casino game.
- (5) It is political advertising.
- (6) It contains material that is obscene, as defined in G.S. 14-190.1, or that is harmful to minors, as defined in G.S. 14-190.13.

(e) No Double Benefit. – A taxpayer that claims a credit under this section may not claim any of the following with respect to the expenses used to determine the credit under this section:

- (1) A credit allowed under any other section of this Chapter.
- (2) A grant from the Job Development Investment Grant Program, set out in Part 2G of Article 10 of Chapter 143B of the General Statutes.
- (3) A grant from the One North Carolina Fund, set out in Part 2H of Article 10 of Chapter 143B of the General Statutes. (2010-147, s. 3.6; 2013-316, s. 2.3(b).)

§ 105-129.57: Reserved for future codification purposes.

§ 105-129.58: Reserved for future codification purposes.

§ 105-129.59: Reserved for future codification purposes.